Internal Revenue Service **Department of the Treasury**

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Date: June 8, 2001

[redacted]

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Dear [redacted]:

This letter responds to your letter dated April 16, 2001, inquiring whether amounts paid as premiums for automobile, homeowner's, medical, dental, and long-term care insurance qualify as investment expenses. Since you did not comply with the requirements of Rev. Proc. 2001-1, 2001-1 I.R.B. 1, we cannot issue you a private letter ruling. We are pleased, however, to provide general information that we believe resolves your inquiry.

In general, § 212 of the Internal Revenue Code allows an individual a deduction for ordinary and necessary expenses paid or incurred for the production or collection of income, or for the management, conservation, or maintenance of property held for the production of income.

Section 1.212-1(a)(1) of the Income Tax Regulations provides that expenses may be deducted under § 212 only if the income, if and when realized, will be required to be included in income for federal income tax purposes, or for the management, conservation, or maintenance of property held for the production of such income.

Section 1.212-1(b) provides that expenses paid or incurred in managing, conserving, or maintaining property held for investment may be deductible even though the property is not currently productive and there is no likelihood that the property will be sold at a profit or otherwise be productive, and even though the property is held merely to minimize a loss with respect thereto.

However, § 262 provides that no deduction is allowed for personal, living, or family expenses, except as expressly provided elsewhere in the Code.

Automobile insurance. Amounts paid for insurance of a personal asset, such as an automobile, are generally not allowed pursuant to § 262. Cardosi v. Commissioner, T.C.M. 1995-147 (1995).

Homeowner's insurance. Section 1.262-1(b)(2) provides that the cost of insuring a dwelling owned and occupied by the taxpayer as a personal residence is not deductible.

Medical, and dental insurance. Section 213(a) provides that expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or dependent, are deductible to the extent that such expenses exceed 7.5 percent of adjusted gross income. Section 213 (d)(1)(A) defines medical care as including amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body.

Section 213(d)(1)(D) provides that medical care includes amounts paid for insurance covering medical care. Premiums for insurance contracts under which amounts are payable for expenses other than medical care, such as lost wages, or loss of life, limb, or sight, may not be deducted unless the amount allocable to medical care is separately stated. Section 1.213-1(e)(4).

Long-term care insurance. Section 213(d)(1)(D) further provides that medical care includes amounts paid for any qualified long-term care insurance contract. Section 7702B(b) provides that a qualified long-term care insurance contract covers only qualified long-term care services and must (1) be guaranteed renewable, (2) not provide for a cash surrender value that can be paid, assigned, pledged or borrowed against, (3) provide that refunds and dividends under the contract must be used only to reduce future premiums (other than upon death of the insured or complete surrender or cancellation of the contract), and (4) generally not pay or reimburse expenses incurred for services that would be reimbursed under Medicare.

Section 7702B(c) provides that qualified long-term care services are necessary diagnostic, preventative, therapeutic, curing, treating, mitigating, and rehabilitative services, and maintenance or personal care services provided to a chronically ill individual at the direction of a licensed health care practitioner.

Summary. The costs of insuring personal assets, such as an automobile or residence are non-deductible personal expenses. The costs of medical, dental, and long-term care insurance are generally deductible as medical expenses, which are allowable only to the extent they exceed 7.5 percent of adjusted gross income.

To more thoroughly explain the treatment of medical and long-term care insurance we have enclosed Publication 502, *Medical and Dental Expenses.*

I hope this information is helpful. Please call Sean Dwyer at the number above, if you have any questions.

Sincerely,

Associate Chief Counsel
(Income Tax & Accounting)

By: ______________________________
Robert A. Berkovsky
Chief, Branch 4

Enclosure: